

## **NON-INDUSTRIAL DISABILITY INSURANCE - FAMILY CARE LEAVE (NDI-FCL) FREQUENTLY ASKED QUESTIONS FOR EMPLOYEES**

### **1. WHAT IS NON-INDUSTRIAL DISABILITY INSURANCE FAMILY CARE LEAVE (NDI-FCL)?**

NDI-FCL provides partial wage replacement to excluded employees enrolled in annual leave when they need to take time off from work to care for a seriously ill family member or to bond with a new child, including an adopted child or a foster care placement.

### **2. WHO IS ELIGIBLE TO RECEIVE THESE BENEFITS?**

Exempt, Excluded, Managerial, Supervisory, and Confidential non-represented employees who currently participate in the Annual Leave Program may be eligible for NDI-FCL benefits.

CBIDs: E99, E98, E97, E79, E78, E77, E68, E67, E59, E58, E48, M01-M21, M99, S01-S21, C01-C21.

### **3. HOW DO I KNOW IF I AM ON ANNUAL LEAVE?**

Your department's personnel office will be able to inform you if you opted to participate in the annual leave program.

### **4. WHERE CAN I GET THE FORM TO APPLY FOR NDI-FCL?**

Request the Claim for Nonindustrial Disability Insurance - FCL (DE 8501F) from your personnel office.

### **5. WHAT SUPPORTING DOCUMENT IS REQUIRED WITH THE DE 8501F FOR THE BIRTH OF MY CHILD?**

EDD will accept a copy of the original birth certificate or the document from the hospital that parents receive when the baby is released that shows the baby's information and parent's name. FMLA/CFRA paperwork is not acceptable proof of relationship for these purposes.

### **6. WHO ADMINISTERS THESE BENEFITS?**

This program is jointly administered by the California Department of Human Resources (CalHR), the Employment Development Department (EDD), the State Controller's Office (SCO), and your personnel office. CalHR sets the overall policy for this program, EDD determines eligibility, SCO issues the pay warrants through their payroll system, and your personnel office processes the payments and coordinates the benefits.

### **7. HOW MUCH WILL I RECEIVE IN FAMILY LEAVE BENEFITS?**

Eligible employees will receive approximately 50 percent of their gross pay weekly. For each day of NDI-FCL used, an eligible employee is paid 1/7 of their weekly entitlement. Employees have the option to supplement with leave credits to receive 75 or 100 percent of their gross pay.

### **8. HOW WILL I BE PAID AND BY WHO?**

NDI-FCL is an employer-funded program, and your pay warrant will continue to be issued by your employer.

### **9. HOW OFTEN WILL I BE PAID WHILE ON NDI-FCL AND ARE MY BENEFITS SUBJECT TO TAX?**

NDI-FCL payments are issued on a monthly basis and are subject to mandatory taxes (Federal, State, Social Security, and Medicare).

### **10. AM I ELIGIBLE FOR NDI-FCL BENEFITS UNDER ENDI?**

If you are an excluded state employee and participate in the Annual Leave Program, you are eligible for NDI-FCL benefits. You can refer to [CalHR policy 1411](#) for more information.

### **11. HOW LONG CAN I RECEIVE THESE BENEFITS?**

You can receive benefits up to six weeks, or 42 days, of NDI-FCL within a 12-month period.

**12. WHAT IS A QUALIFYING EVENT FOR NDI-FCL?**

Employees who need to take time off from work to care for a seriously ill child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner may submit an NDI-FCL care claim. Employees who need to take time off from work to bond with a new child, adopted, or foster care child may submit an NDI-FCL bonding claim.

**13. CAN I FILE AN NDI-FCL CLAIM FOR BONDING IF MY CHILD IS BORN, ADOPTED, OR PLACED PRIOR TO JULY 1, 2019?**

Yes. If you are eligible for NDI-FCL, you may file a claim within one year of the birth or placement of your new child. However, you will not receive benefits for your time off work prior to the program implementation date.

For example, if you give birth on March 1, 2019, you are eligible for benefits from the July 1, 2019 program implementation date, for a total of six weeks as certified by the appropriate documentation. In this example, you would be eligible for NDI-FCL benefits from July 1, 2019 through February 29, 2020 (the day before your newborn's first birthday).

**14. IF I BEGAN CARING FOR AN ILL FAMILY MEMBER PRIOR TO THE EFFECTIVE DATE OF THE PROGRAM, JULY 1, 2019, AM I ELIGIBLE FOR BENEFITS?**

Yes. However, you will not receive NDI-FCL benefits for your time off work while you were caring for a family member prior to the implementation date.

For example, if you are a caregiver to an eligible family member from March 2019 to November 2019, you may be eligible for NDI-FCL benefits from the July 1, 2019 program implementation date, for a total of six weeks as certified by a physician. In this example, you would not be eligible for benefits from March 2019 through June 30, 2019.

**15. DOES NDI-FCL HAVE TO BE TAKEN FOR A CONTINUOUS PERIOD, OR CAN IT BE TAKEN IN HOURLY/DAILY/WEEKLY INCREMENTS?**

NDI-FCL is paid in daily increments and can total six weeks, or 42 days, in a 12-month period.

**16. WHAT IS THE DIFFERENCE BETWEEN FAMILY MEDICAL LEAVE ACT (FMLA)/CALIFORNIA FAMILY RIGHTS ACT (CFRA) AND STATE DISABILITY INSURANCE (SDI) PAID FAMILY LEAVE (PFL) AND NDI-FCL?**

FMLA/CFRA are acts that protect your employment for up to 12 weeks while on a leave of absence to care for yourself or a family member. There is no pay associated with FMLA/CFRA.

PFL is an employee-funded program that provides partial wage replacement for employees who pay in to SDI and need to take time off of work to bond or care for a family member (child, spouse, parent, sibling, grandparent, grandchild, parent-in-law, registered domestic partner).

NDI-FCL is an employer-funded program that provides partial wage replacement for eligible state employees who need to take time off of work to bond or care for a family member (child, spouse, parent, sibling, grandparent, grandchild, parent-in-law, registered domestic partner).

**17. WHAT IS THE DIFFERENCE BETWEEN AN NDI-FCL BONDING CLAIM AND AN NDI-FCL CARE CLAIM?**

NDI-FCL Bonding is a six-week program for employees who want to bond with a newborn, adopted, or foster child. NDI-FCL bonding leave must be used within one year of the qualifying event.

Note: Both spouses are eligible for six weeks of NDI-FCL for bonding, which can be taken at the same time.

NDI-FCL Care is a six-week program for employees who need to take time off of work to care for a child, spouse, parent, sibling, grandparent, grandchild, parent-in-law, or registered domestic partner.

Note: Depending on how many hours a doctor certifies that the care recipient needs for care will dictate how many care providers can apply for FCL care for the same recipient. Example: 8 hours of care equals one care provider, 16 hours equals two care providers, 24 hours equals 3 care providers.

Employees are only entitled to a combined total of six weeks of NDI-FCL Bonding and NDI-FCL Care leave in a 12-month period.

**18. CAN AN EMPLOYEE FILE FOR PFL AND NDI-FCL AT THE SAME TIME?**

Yes, there are circumstances when an employee is eligible for both PFL and NDI-FCL, such as going from excluded to represented and vice versa. The employee could receive 50 percent from NDI-FCL and 50 percent, or up to their gross pay, from PFL. EDD would determine eligibility, and the employee must meet the requirements. In such cases, SDI warrants should be provided to your HR office to ensure you do not receive more than your gross pay. NDI-FCL and regular pay should also be reported to EDD to avoid overpayments.

**19. DOES NDI-FCL ALSO PROVIDE FOR JOB RESTORATION?**

NDI-FCL is a benefit provided under the current ENDI program so the job restoration rules under ENDI will also apply to NDI-FCL. Additional information can be found in [CCR 599.775](#).

**20. WHERE CAN I FIND MORE INFORMATION ON NDI-FCL?**

Additional information can be found on [EDD's website](#) or CalHR's [HR Online Manual](#).

**21. WHAT ARE MY RESPONSIBILITIES AS AN EMPLOYEE?**

You must submit a leave plan via the [NDI-FCL Designation Form](#) (or similar form provided by your personnel office) to your supervisor and personnel office each month of NDI-FCL eligibility, submit a timely NDI-FCL application (DE 8501F), and keep open communication with your supervisor and personnel office if you have any changes to your plan. Communication is key in order to avoid any over or under payments.

**22. WHAT IF I HAVE TWO SEPARATE QUALIFYING EVENTS IN THE SAME 12-MONTH PERIOD?**

You can file both claims, but you would only be eligible to receive a maximum of six weeks in a 12-month period. Both claims are cumulative and may not be used on the same day.

**23. PRIOR TO IMPLEMENTATION OF THIS PROGRAM I HAVE EXHAUSTED MY FMLA/CFRA BENEFITS. AM I STILL "PROTECTED" FOR AN NDI-FCL CLAIM WITHOUT HAVING FMLA/CFRA?**

NDI-FCL is not a protected leave and the employee is not entitled to the FMLA/CFRA benefits if FMLA/CFRA has been exhausted prior to NDI-FCL use. If the employee still has FMLA/CFRA hours, the employee has to decide if they want the protection of FMLA/CFRA concurrently with the NDI-FCL wage replacement or not.

**24. I'VE ALREADY APPLIED FOR FMLA/CFRA WHEN WILL EDD PAY ME?**

FMLA/CFRA are job protection benefits. There is no pay associated with FMLA or CFRA. Please work with your personnel office for clarification.

**25. CAN I WORK WHILE ON NDI-FCL? HOW DOES IT WORK?**

No, employees cannot work while on NDI-FCL, which means employees cannot work the same day they take NDI-FCL.

**26. CAN I TAKE NDI-FCL INTERMITTENTLY?**

Yes, employees can create a leave plan in which they work some days in a week or month and take NDI-FCL on other days in a week or month during the 12-month period. For example, employees may choose to take NDI-FCL every Monday and Friday until their benefit is exhausted and/or the 12-month period has passed.

**27. CAN I KEEP MY ALTERNATE WORK WEEK SCHEDULE (9/8/80 OR 4/10/40) WHILE CLAIMING NDI-FCL?**

Yes, you can keep your alternate work week schedule, but more leave will need to be used for each nine or ten-hour day NDI-FCL is claimed to offset the additional hours required that day.

## **NON-INDUSTRIAL DISABILITY INSURANCE - FAMILY CARE LEAVE (NDI-FCL) FREQUENTLY ASKED QUESTIONS FOR PERSONNEL OFFICES OR PAYROLL SPECIALISTS**

**1. HOW DOES THE EMPLOYER REQUEST AN NDI-FCL FORM?**

You can order the new FCL (DE 8501F) applications using this link: <https://forms.edd.ca.gov/forms>. Enter DE 8501F (this is the form number for FCL applications) in Keyword(s) or Form Number field. Users can enter the quantity and mailing information. This same process can be used to order the NDI-FCL Provisions DE 8502F (this is the form number for FCL information pamphlet) as well.

**2. DOES NDI-FCL HAVE A WAITING PERIOD?**

No.

**3. DOES THE EMPLOYEE HAVE TO BE A CURRENT ACTIVE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MEMBER OR STATE TEACHERS' RETIREMENT SYSTEM MEMBER; OR A FULL-TIME STATE OFFICER OR EMPLOYEE OF THE LEGISLATURE TO RECEIVE NDI-FCL?**

Yes.

**4. DOES AN EMPLOYEE RECEIVE PERS/STRS CREDIT?**

If the employee supplements 75 percent or 100 percent, they would receive partial credit on the supplemented part above the 50 percent.

**5. WHAT IS THE DIFFERENCE BETWEEN THE NDI-FCL BENEFITS AND THE CURRENT ENHANCED NON-INDUSTRIAL DISABILITY INSURANCE (ENDI) BENEFITS?**

NDI-FCL benefits are only available to excluded employees who do not have the option of participating in the state's Paid Family Leave Program. Only excluded employees on annual leave may be eligible for these benefits. NDI-FCL provides up to six weeks of benefits in a 12-month period for employees who need time off work to care for a seriously ill family member or bond with a new child entering the family through birth, adoption, or foster care placement.

ENDI provides up to 26 weeks of benefits for a qualifying medical disability, and employees must serve a 7- or 10-day waiting period before benefits are paid. Unlike the ENDI program, NDI-FCL does not require a 7- or 10-day waiting period to be served before benefits are payable.

**6. WILL THE PROCEDURES FOR PROCESSING FCL APPLICATIONS BE THE SAME AS ENDI APPLICATIONS?**

The procedures for applying for these benefits, the roles and responsibilities of the personnel offices, and how the benefits are paid are similar to the current ENDI program. One difference is that NDI-FCL will have a different application than the one used for ENDI and the personnel office will be responsible for certifying that the employee is an excluded employee on annual leave. Some key differences with NDI-FCL is that it only provides six weeks/42 days of benefits, there is no waiting period, and it can be used intermittently, which may or may not include regular days off. The employee must provide their employer with the days scheduled for FCL to ensure accurate payment.

**7. WHAT IS THE DEFINITION OF "RELATIVE" FOR EMPLOYEES WHO WANT TO CARE FOR A SERIOUSLY ILL RELATIVE?**

Employees may be eligible for NDI-FCL benefits if they need to take time off from work to care for a seriously ill child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner. Employees seeking NDI-FCL benefits to care for a relative other than those listed above would not meet the requirements to receive these benefits.

**8. HOW WILL THE BENEFIT AMOUNTS BE CALCULATED?**

The benefit amounts will be calculated by using the new NDI calculator (the old calculator will work as well).

**9. HOW CAN I VERIFY WHO IS ELIGIBLE?**

The employee must be excluded from bargaining and enrolled in the Annual Leave Program.

CBIDs: E99, E98, E97, E79, E78, E77, E68, E67, E59, E58, E48, M01-M21, M99, S01-S21, C01-C21.

**10. WHERE CAN I FIND MORE INFORMATION ON HOW TO PROCESS NDI-FCL?**

CalHR NDI policy 1411, SCO website, and EDD website.

**11. AN EMPLOYEE ALREADY RECEIVED 26 WEEKS OF ENDI AFTER THE BIRTH OF HER CHILD. WOULD THIS EMPLOYEE BE ELIGIBLE FOR THE 6 WEEKS FCL BENEFIT? ARE THE 6 WEEKS OF NDI-FCL PART OF THE 26 WEEKS OF A FULL ENDI CLAIM?**

The NDI-FCL claim would be a separate claim. They would potentially be eligible for six weeks of bonding if the child has not reached their first birthday.

**12. CAN EMPLOYEES CLAIM NDI-FCL DURING AN APPROVED NDI PERIOD?**

No, if an employee is approved for a disability, he or she cannot claim NDI-FCL because a disabled person cannot care for a family member. NDI-FCL can be used after the conclusion of NDI.

**13. HOW IS THE ADDITIONAL LEAVE CALCULATED FOR EMPLOYEES WHO REMAIN ON THEIR ALTERNATE WORK WEEK SCHEDULE (9/8/80 OR 4/10/40) WHILE CLAIMING NDI-FCL?**

The new NDI calculator will calculate an NDI-FCL day as an eight-hour day, it will not calculate the additional leave required for supplementation for someone on a nine- or ten-hour day. The additional leave to offset their AWW schedule is captured within the NDI calculator, but will still need to be posted in your departments leave accounting system separate from supplementation leave as they are coded differently.

**14. HOW ARE HOLIDAYS COMPENSATED WHEN EMPLOYEES ARE TAKING NDI-FCL?**

Holidays are compensated differently depending on employees' supplementation amounts. Please refer to Section E of the Payroll Procedures Manual (PPM) for details.